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10/066,104	10/29/2001	Michael Allman	319-097-2	7402

7590

09/22/2003

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EXAMINER

KUHNS, ALLAN R

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 09/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,104

Applicant(s)

ALLMAN ET AL.

Examiner

KUHN S

Group Art Unit

1732

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 17 - 29 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 26 - 29 is/are allowed.
- ☒ Claim(s) 18 AND 20 - 25 is/are rejected.
- ☒ Claim(s) 19 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bambara et al.

Bambara et al. disclose or suggest the basic claimed method for producing articles having at least two colors or hues integrally formed therein including (1) adding plastic material for forming the article into an extruder, the plastic material including at least two components having different hues, (2) melting the plastic material at elevated temperatures and pressures into a polymer melt, (3) mixing a blowing agent into the polymer melt to assure a dispersion therein and plasticization thereof, (4) passing the plasticized polymer melt through an extrusion die for forming an elongated continuous foamed article of desired shape, and (5) controlling the passage of the components having different hues through the die to produce elongated, substantially continuous streaks of one hue extending through the second hue to produce an article having a desired visual appearance. It is submitted that the formation of a rod-like extrudate is within the purview of Bambara et al., based on the disclosure of “virtually any physical configuration, at column 7, line 58. Bambara et al. appear not to explicitly teach “aggressively” mixing a blowing agent into the polymer melt, but such would have been obvious to one of ordinary skill in the art in order to ensure that bubbles or cells are uniformly distributed throughout the extruded article. The aspect

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that the article is used as a closure or stopper is essentially a statement of an intended use for the molded article rather than a manipulative step used to distinguish "method" claims.

3. Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sola.

Sola discloses or suggests the basic claimed method including forming a plastic polymer in an extruder by passing the polymer through an extrusion die, and expelling the exiting plastic from the die into a plurality of mating casting members for forming a plurality of interconnected products in a continuous extrusion process whereby products of a desired shape are capable of being extruded in a continuous operation. Forming a foamed article is well known and would have been obvious to one of ordinary skill in the art in order to reduce weight of the article and/or consume less raw plastic material. The aspect that the article formed is a closure or stopper is essentially a statement of an intended use for the molded article rather than a manipulative step used to distinguish "method" claims.

Sola teaches or suggests the mating casting members of claims 21 and 22, which form a product forming zone and move in and out of engagement with each other, and the mating of members until the article is formed, as in claim 23. Sola also discloses the continuous motion of mating members in a closed loop, as in claim 24, and a rotational movement, as in claim 25.

4. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 26-29 are allowed.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (703) 308-3462. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (703) 305-5493. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Allan R. Kuhns
ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732
9-16-03